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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,056	08/07/2003	Kermit R. Littleton	SSK-6-CIP-CON (SS-00305.2)	1030
22827	7590	05/11/2005	EXAMINER RAYFORD, SANDRA M	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			ART UNIT 1772	
DATE MAILED: 05/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/636,056

**Applicant(s)**

LITTLETON ET AL

**Examiner**

Sandra M. Nolan-Rayford

**Art Unit**

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ( <u>See action.</u> ) | 6) <input type="checkbox"/> Other: ____  |

Art Unit: 1772

## **DETAILED ACTION**

### ***Claims***

1. After entry of Applicants' preliminary amendment dated 07 August 2003, claims 14-33 are pending.

### ***Information Disclosure Statement***

2. The information disclosure statements (IDS's) submitted on 03 October 2003, 15 April 2004 and 03 May 2004 were considered by the examiner.
3. Any citations that did not recite publication dates have been crossed off of the citation form(s).

### ***Unavailability of Related Application File***

4. Do to a computer outage, the file of U.S. SN. 09/133,056 (now US 6,730,380) is not available to the examiner today.

### ***Double Patenting***

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Art Unit: 1772

6. Claims 1-33 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6, 7 and 22 of U.S. Patent No. 6,730,380 (to Littleton et al; "the '380 patent") in view of Weikel et al (pregrant publication US 2002/0009561A1).

The Weikel publication was cited by Applicants in an IDS.

The '380 patent claims, in claims 6 and 7, the use of a surfactant layer containing a silicone and a surfactant in an elastomeric article having a substrate body, a donning layer and an overlying surfactant layer over it. That is, the articles claimed have substrate/donning layer/surfactant layer structure. The articles are gloves (claim 22).

The '380 patent claims do not recite behentrimonium salts.

Weikel teaches, in claim 13 (page 3, col. 1, line 5 and 6 from the bottom), that benentrimonium salts are self-emulsifying waxes. In claim 11 (earlier in the same column) it teaches the use of a silicone with the self-emulsifying waxes in lubricants for elastomeric gloves. Its gloves may be halogenated before the lubricants are applied thereto (par. 0025 at page 2, col. 2, lines 3-4).

Use of its lubricants gives gloves that are easily donned (par. 0002 at page 1, col. 1, lines 5-14).

The references are analogous because they both deal with elastomeric gloves.

It would have been obvious to one having ordinary skill in the art at the time of the invention to employ the waxes and optional halogenation of Weikel when making the gloves of the '380 patent in order to make them more easily donned.

Art Unit: 1772

The motivation to employ the waxes of Weikel is found in par. 0002 of the publication, where donning ease is discussed.

The motivation to employ halogenation is found in par. 0025 of Weikel, where halogenation before lubrication is taught.

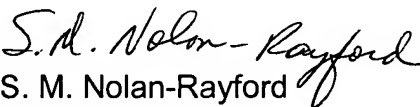
It is deemed beneficial to make gloves easily donned, so that they can be used quickly.

**Conclusion**

Any inquiry concerning this communication should be addressed to Sandra M. Nolan-Rayford, at telephone number 571/272-1495. She can be reached Monday through Thursday, from 6:30 am to 4:00 pm, ET.

If attempts to reach the examiner are unsuccessful, contact her supervisor, Harold Pyon, at 571/272-1498.

The fax number for patent application documents is 703/872-9306.

  
S. M. Nolan-Rayford  
Primary Examiner  
Technology Center 1700

10636056(20050507)